

Herbert A Viergutz

From: "Steven J. Shamburek" <shamburek@gci.net>
To: "Herbert A Viergutz" <barmar@gci.net>
Cc: "Michael W. Sewright" <mws@bpk.com>
Sent: Wednesday, February 15, 2006 7:00 PM
Subject: RE: Late Expert Report

Herb,

You stated to me after a deposition in December that you were obtaining an expert regarding the bad faith claims against USF&G. There is one deadline for all expert reports established in the Court's order, namely February 14. That deadline gave the parties six weeks to undertake any necessary additional discovery. That deadline controls without the need for the Court to state expressly that the deadline trumps other default deadlines in the rules. No one asked for nor did the Court order a rebuttal deadline. The claimants retained an expert who provided an opinion in compliance with the deadline set forth in the Court's order. Because your current statement about contacting an expert may only be a bluff and until a report is proffered, a motion to strike is premature. If an untimely report is presented by an expert who was not properly disclosed, an appropriate motion will be filed when it is timely. The judge should recognize what is going on.

Steve

From: Herbert A Viergutz [mailto:barmar@gci.net]
Sent: Wednesday, February 15, 2006 12:59 PM
To: Steven J. Shamburek
Subject:

I obviously do not agree with your interpretation. The Court Order does not address rebuttal reports, so the 30 day provision applies. You can surely take it to the Court, but this one for you is a dead loser. You may not like that, but the Rule is clear, and so is the omission in the Order i.e. the Rule controls on a rebuttal report. You must really be afraid your "expert" analysis is wrong. My position will not change.

Exhibit A page 7 of 9 2/16/06